

Exhibit N

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

TERESA LARA BENAVIDEZ, MARIA DE LOURDES GALVEZ, JAMIE HUERTA, FLORA ZURITA, MARIA DE LOURDES VASCONEZ ALARCON, LABRARMY GARCIA, and ESTABAN NADER, on behalf of themselves and all others similarly situated,

Plaintiffs,

-against-

PLAZA MEXICO, INC., PIRAMIDES MAYAS INC., MAMA MEXICO MIDTOWN REALTY LLC, SHADDAI INC., MAMA MEXICO ENGLEWOOD REALTY LLC, JUAN ROJAS CAMPOS, VINCENTE ROJAS, MIGUEL ROJAS, LAURA CHAVEZ, JOSE LUMBARDI and FREDDY RAYMONDI,

Defendants.

09 CIV 5076 (AKH)(THK)

**DECLARATION OF
JAMIE HUERTA**

I, Jamie Huerta, declare, upon personal knowledge and under penalty of perjury, pursuant to 28 U.S.C. Section 1746, that the following is true and correct:

1. I worked for the Mama Mexico restaurant located at 2672 Broadway, New York, New York from approximately October 2006 through approximately October 2007, and from approximately August 2008 through April 2009.

2. During my entire employment at Mama Mexico, I worked as a server.

UNPAID WAGES

3. During my employment at Mama Mexico, Mama Mexico consistently delayed paying me any wages at all, sometimes for up to approximately 7 months. During this period, the only pay I took home was the tips I earned each shift.

4. When Mama Mexico ultimately did pay me some back wages, the amount covered only part of the wages that Mama Mexico owed me and did not cover all of the hours

that I worked, including hours over forty for which I should have been paid an overtime premium. It also did not include an extra amount for liquidated damages or interest.

5. The wages that Mama Mexico paid me were at a flat rate of approximately \$20 to \$30 for each shift that I worked.

6. I regularly worked an average of approximately 7 shifts each week (or approximately 60 hours).

7. The flat rate that Mama Mexico paid me also did not include the premium pay I earned for the hours I regularly worked over 40 each week.

8. Almost every day, I worked more than 10 hours in a single day. Mama Mexico never paid me an extra hour of wages at the minimum wage rate for each day during which I worked more than 10 hours.

9. It was Mama Mexico's practice to send some servers home who report to work for their regularly scheduled shift. On several occasions, I arrived at work and was told that my services were not needed after working a few hours. On those occasions, Mama Mexico never paid me for a minimum of three hours pay or any portion of tips earned.

10. Mama Mexico required me to attend a mandatory meeting approximately once a week, even when I was not scheduled to work on the day when the meeting was held. The meeting lasted for approximately two hours, on average. Mama Mexico did not compensate me for the time that I spent at the meeting.

TIP POOLING

11. During the entire course of my employment at Mama Mexico, I was required to pool all of the tips I received each shift with the tips earned by other employees.

12. It is my understanding that the tip pooling policy was mandatory and was instituted by management. I was never consulted about the tip pooling policy and had no input into how my tips would be distributed.

13. Mama Mexico distributed a portion of the servers' tips to managers each shift. For example, I saw Sergio Reyes, a server, allocate a portion of the tips that I and the other servers had earned to Manuel Melchor, a manager, after each shift. Armando Rojas, another manager, also received a portion of the servers' tips. I know this because he often asked me and the other servers to give him a portion of the tips from the tip pool at the end of the day. When I asked Mr. Rojas why he took some of the servers' tips, he said he was following "an order from above," or words to that effect, and that his father, Vincente Rojas, a manager and co-owner of the restaurant, told him to take a portion of the tips.

14. The managers who received tips did not regularly interact directly with customers. These managers occasionally, maybe once a shift, had some very insignificant interactions with customers when the restaurant was very busy, but this was very rare.

15. The managers who received tips had the power to hire and fire employees and to discipline them. For example, Manuel Melchor hired me. In addition, I frequently saw Armando Rojas hire and discipline staff members.

16. It is my understanding that Mama Mexico distributed a portion of my tips to the cashier each shift. The cashier's duties involved ringing up customers' bills at the end of their meal and preparing their checks. Cashiers rarely, if ever, performed work on the floor or interacted directly with customers. I, along with several other employees, confronted Vincente Rojas in approximately January 2009 about why the cashier was being paid with the servers'

tips. Mr. Rojas told us that it was the policy of the restaurant to pay the cashier in part through tips, and that, if we didn't like it, the doors were always open for us to leave.

17. It is also my understanding that Mama Mexico distributed a portion of my tips to a position called "the extra" each shift. The extra's duties involved maintaining and restocking the bar, stocking the silverware, plates, and tablecloths, and transporting ice. Extras rarely, if ever, interacted directly with customers.

UNIFORMS

18. It was Mama Mexico's policy that all servers wear: a black skirt, white button-down shirt, a pin, a "corabtin" (a traditional Mexican bowtie), and an apron on which the restaurant's name was printed

19. It was Mama Mexico's policy that all employees purchase, launder, and maintain their uniforms at their own expense. I had to purchase several aprons, a pin, and 2 corbatins for a total of approximately \$195. I regularly had to pay to have the apron and tie laundered and was not reimbursed for these costs.

OTHER DEDUCTIONS

20. It was Mama Mexico's policy and practice to require servers to pay for breakages or spoilages out of their own pockets. For example, in September of 2008, a manager named Isaias Canalizo made me pay the restaurant \$25 when the customer I was serving sent back a dish that had been delayed in reaching them. In addition, during mandatory meetings, managers quizzed the servers on their knowledge of the menu. If a server incorrectly answered a question or did not know the answer, the managers, including Manuel Melchor, Isaias Canalizo and Vincente Rojas charged them amount that the menu item would cost from their pocket. I saw this happen frequently to Flora Zurita, a server.

COMPLAINTS

21. In approximately December 2008, I complained to Armando Rojas, a manager, about not being paid any wages for approximately 7 months. In response, he told me that the restaurant was in a financial crisis and that it did not have the money to pay my wages. In addition, in approximately February 2009, during a weekly meeting, I approached Vincente Rojas, a manager, along with several other employees, about not being paid properly. In response, Vincente Rojas said that the restaurant had to pay the chefs first because they did not receive tips, and that the servers, bussers, runners, cashier, and extras would have to wait because we received tips.

RETALIATION

22. On several occasions, managers told me and my co-workers not to complain about not being paid correctly to the Department of Labor. For example, in approximately February 2009, investigators from the Department of Labor arrived at the restaurant. I heard Tirzo Vidals, a manager, tell employees not to talk to the investigators or tell them anything about their employment. He said that if they mentioned anything about not being paid properly, they would be fired.

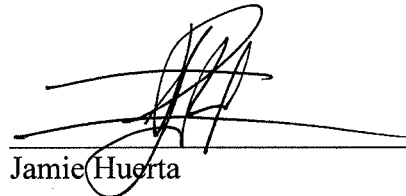
23. That same day, Mr. Vidals and Armando Rojas, another manager, sent a delivery person to stand on the corner and tell employees arriving for their shift to come back later because the immigration authorities were at the restaurant. Armando Rojas stood at the door of the restaurant and told employees arriving for the weekly meeting to leave.

24. The following week at a meeting, Vincente Rojas criticized employees who had complained to the Department of Labor, asking how could they “talk badly about the one who feeds you,” or words to the effect.

25. After this lawsuit was filed, in approximately July 2009, I heard from Angeles Jimenez, a server, that Mama Mexico managers, including Jose Lombardi, had made derogatory comments about the individuals who brought the lawsuit. Mr. Lombardi said that the plaintiffs in the lawsuit did not know anything about the law, that their claims were worthless, and that they would be unsuccessful. He also said that justice would not prevail and that those who would win this lawsuit are those who had money and connections.

26. I believe that the managers' comments have had a chilling effect on employees of Mama Mexico and have affected their decision to join the lawsuit. Current employees of Mama Mexico have told me that they will not join the lawsuit out of fear that Vincente Rojas and Jose Lombardi will carry out their threat to report the employees who join the case to the immigration authorities.

Dated: New York, New York
12 16, 2009



Jamie Huerta